

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ALINE MENDES,

Plaintiff,

v.

AMAZON.COM SERVICES, INC.,

Defendant.

No. 1:21-cv-12049

NOTICE OF REMOVAL

TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Amazon.com Services LLC¹ (“Amazon”), hereby removes the above-captioned action from the Superior Court of the Commonwealth of Massachusetts for Barnstable County under case number 2172CV383, to the United States District Court for the District of Massachusetts at Boston. The grounds for removal are described below.

I. INTRODUCTION

Plaintiff Aline Mendes filed suit in state court against a company from another state, seeking damages in excess of \$75,000. As a result, this Court has diversity jurisdiction under 28 U.S.C. § 1332, and removal is proper.

II. STATEMENT OF FACTS

1. Plaintiff filed suit in this Court on October 21, 2021 in Barnstable County Superior Court, Case No. 2172CV383. Attached as **Exhibit A** is a true and correct copy of the complaint.

2. In the complaint, Plaintiff alleges four claims against Amazon: 1) breach of contract, 2) unjust enrichment, 3) negligent misrepresentation, and 4) violation of MASS. GEN. LAWS ch. § 93A. Compl. ¶¶ 27-55.

¹ Plaintiff incorrectly identifies Defendant as “Amazon.com Services, Inc.,” which does not exist. The correct Defendant, and entity with which Claimant did business, is Amazon.com Services LLC.

3. Plaintiff alleges Amazon “failed to release her earned profit of \$33,282.32.” Compl. ¶ 29. In her prayer for relief, Plaintiff requests these alleged “[u]nreleased earned profits,” in addition to “lost product investment money.” *Id.* at 8. She requests “[t]reble damages as authorized by [Mass. Gen. Laws Ch.] 93A.” *Id.* She further requests interest and attorneys’ fees and costs “as authorized by” MASS. GEN. LAWS ch. § 93A and other statutes. *Id.*

4. Plaintiff alleges she is an individual with a primary residential address at 67 Thoreau Drive, Centerville, MA 02632. *See* Compl. ¶ 2.

5. Amazon.com Services, Inc., the sole defendant named in this case, does not exist. Amazon.com Services LLC is the party to the contract Plaintiff entered into to sell products in the Amazon.com store and is the entity that operates the Amazon.com store. Amazon.com Services LLC’s sole member is Amazon.com Sales Inc., which is a Delaware corporation with its principal place of business in Seattle, Washington.

III. DIVERSITY JURISDICTION EXISTS

6. Amazon is entitled to remove this action under 28 U.S.C. § 1332 because complete diversity of citizenship exists and the amount in controversy exceeds \$75,000. *See* 28 U.S.C. § 1446(a) (requiring a “short and plain statement of the grounds for removal”).

A. Complete Diversity Exists

7. This case satisfies the complete diversity requirement. An individual’s citizenship is their state of domicile, which “can be established by demonstrating that the individual is physically present in the state and has an intent to remain indefinitely.” *Garcia Perez v. Santaella*, 364 F.3d 348, 350 (1st Cir. 2004). “[R]esidence is highly relevant to the issue of domicile.” *Lundquist v. Precision Valley Aviation, Inc.*, 946 F.2d 8, 11 (1st Cir. 1991).

8. Plaintiff is a citizen of Massachusetts because she alleges her “primary residential address” is in Massachusetts. Compl. ¶ 2.

9. “Limited liability companies are unincorporated entities. The citizenship of an unincorporated entity, such as a partnership, is determined by the citizenship of all of its members.” *Pramco, LLC ex rel. CFSC Consortium, LLC v. San Juan Bay Marina, Inc.*, 435

F.3d 51, 54 (1st Cir. 2006). Under 28 U.S.C. § 1332, a corporation “shall be deemed to be a citizen of every State ... by which it has been incorporated and of the State ... where it has its principal place of business.” A corporation’s principal place of business is “where a corporation’s officers direct, control, and coordinate the corporation’s activities,” which is generally “the place where the corporation maintains its headquarters.” *Hertz Corp. v. Friend*, 559 U.S. 77, 93 (2010).

10. Amazon.com Services LLC—the proper defendant in this action—is a citizen of Delaware and Washington because its sole member is Amazon.com Sales Inc., which is a Delaware corporation with its principal place of business in Seattle, Washington.

11. Because Plaintiff and Amazon are citizens of different states, Massachusetts, Delaware, and Washington, respectively, the parties are completely diverse and removal is proper.

B. The Amount in Controversy Exceeds \$75,000.

12. “The amount in controversy [for diversity jurisdiction] includes statutory multipliers of damages, such as the treble damages provision in Mass. Gen. Laws ch. 93A.” *L. Off. of Joseph J. Cariglia, P.C. v. Jelly*, 146 F. Supp. 3d 251, 254-55 (D. Mass. 2015). Plaintiff expressly requests treble the amount she alleges Amazon has not released—\$33,282.32—which amounts to a total damages claim of at least \$99,846.96.

13. The amount in controversy also includes unspecified “lost product investment money” and statutory attorney’ fees. *See Spielman v. Genzyme Corp.*, 251 F.3d 1, 7 (1st Cir. 2001) (attorneys’ fees requested pursuant to Mass. Gen Laws ch. 93A are included in the amount in controversy for diversity jurisdiction).

14. Because the complaint seeks at least \$99,846.96 in damages—in addition to statutory attorneys’ fees and other unspecified damages—the amount in controversy exceeds \$75,000.

IV. REMOVAL IS TIMELY

15. Plaintiff served the complaint on Amazon on November 16, 2021. Therefore, pursuant to 28 U.S.C. § 1446, the notice of removal is timely because less than 30 days have passed since service of the complaint.

V. INTRADISTRICT ASSIGNMENT

16. This action is properly removed to the Eastern Division of the United States District Court for the District of Massachusetts because the Eastern Division includes Barnstable County. L.R., D. Mass. 40.1(c)(1).

VI. THE SERVED DOCUMENTS ARE ATTACHED

17. Copies of all process, pleadings, and orders served on Defendant, including the complaint, are attached to this Notice as **Exhibit A**. *See* 28 U.S.C. § 1446(a). Amazon separately will file a Certification of State Court Records under L.R., D. Mass. 81.1(a) within 28 days.

VII. NOTICE WILL BE PROVIDED TO THE STATE COURT

18. Promptly after filing this Notice of Removal, Amazon will give written notice to Mendes's counsel and will file a copy of this Notice with the Clerk of Barnstable County Superior Court pursuant to 28 U.S.C. § 1446(d).

Amazon therefore requests the removal of the above-referenced action from the Superior Court of the State of Massachusetts for Barnstable County to the United States District Court for the District of Massachusetts at Boston.

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DATED this 15th day of December, 2021.

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CERTIFICATE OF SERVICE

I certify that on December 15, 2021, a copy of this pleading was filed electronically with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record via email and U.S. Mail.

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Declared under penalty of perjury under the laws of the state of Washington dated at Redmond, Washington this 15th day of December, 2021.



Susan Bright